S.B.CRIMINAL MISC. BAIL APPLICATION NO.2171/06

Date : 13.11.2006

HON'BLE MR. SATYA PRAKASH PATHAK, J.

Mr. R.K. Charan for the applicant.
Mr. Vishnu Kachhawaha, Public Prosecutor for State.

I have heard learned counsel for the applicant as well as the learned Public Prosecutor for the State and carefully gone through the impugned order.

In this case, an order was passed by this Court on 01.06.2006 that the petitioner shall not be arrested till the DNA test report is filed. The allegations are to the effect that the prosecutrix was forcibly raped and for that reason subsequently she became pregnant and the accused petitioner is father of the child in the womb of the prosecutrix.

On perusal of the DNA report available in the case diary reveals that it does not confirm the fact by DNA test that the child in womb of the prosecutrix is of the petitioner. Learned counsel, therefore, submits that in above

circumstances, he should be enlarged on bail.

It is correct that allegations in the complaint are required to be gone into while considering the bail application but in the present matter there is an order passed by this Court to get conducted DNA test making a mention therein that the petitioner shall not be arrested till DNA report is received. The DNA report as discussed above supports the contentions of the petitioner.

In view of above, without expressing any opinion on the merit of the case while taking into consideration the overall facts and circumstances of the present case, I deem it just and proper to grant anticipatory bail to the applicant. Accordingly, it is directed that in the event of arrest of applicant Raju Lohar S/o Ladu Lal Lohar by I.O./S.H.O. in FIR No.108/2006 P.S. Sadar, Bhilwara, he shall be released on bail provided he furnishes a personal bond in the sum of Rs.30,000/- alongwith two sound and solvent sureties in the sum of Rs.15,000/- each to the satisfaction of Investigating

Officer on the following conditions:-

(i)That he shall make himself available for interrogation by a police officer as and when required;

(ii)That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer and;

(iii)That he shall not leave India without the previous permission of the Court.

(SATYA PRAKASH PATHAK), J.

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